




Electronic Commerce & State Insurance Regulation



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What is the NAIC?

- Voluntary organization of the chief state insurance regulatory officials
- Formed in 1871
- 55 members
- Three offices: Exec., DC and SVO
- Approximately 380 employees

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What are the NAIC's Objectives?

- Promotion of the public interest through the regulation of insurance and the fair, just, and equitable treatment of consumers;
- Reliability of the insurance institution as to solvency, financial solidity, and guaranty against loss; and
- Maintenance and improvement of state regulation of insurance.

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What Does the NAIC Do?

- Forum to discuss common interests;
- Facilitates members working cooperatively on regulatory matters that transcend jurisdictional boundaries;
- Monitors and supports Committee, Subcommittee and Task Force activity;

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What Does the NAIC Do?

- Tracks non-U.S. insurers wanting to do business in this country;
- Collects and maintains financial information from insurers to assist state regulators in their efforts to monitor solvency;
- Provides support for state litigation in the form of *Amicus Curiae* briefs;

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What Does the NAIC Do?

- Values securities held by insurers;
- Monitors federal activity that affects insurance regulation;
- Supports insurance department consumer activities by producing a number of consumer guides;

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What Does the NAIC Do?

- Prepares statistical reports to support insurance regulators' activities in financial surveillance, rate regulation, actuarial and market analysis, and related areas; and
- Provides technical expertise in financial regulation and computer audit techniques to insurance regulators.

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A Regulatory Perspective--What Does This Mean?

- The perspective remains the same in the electronic world as in the traditional paper world of insurance delivery
- The electronic rules may be different, but regulatory application is the same
- Goal remains clear: Protection of the Consumer

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Electronic Commerce Legislation

- Uniform Electronic Transactions Act (UETA)
 - “Model” law for states
 - Adopted by 23 states
- Electronic Signature in Global and National Commerce Act (E-SIGN/S.761)
 - Federal law effective October 1, 2000/March 1, 2001

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State Approaches to

- Most have some law with general application.
- Approaches vary:
 - Law applies only to dealings with state
 - Law addresses only electronic signatures;
 - Law applies generally and covers commerce generally; and

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UETA

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Legal protection and status to electronic agreements and signatures

Party autonomy

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– State autonomy/federal preemption

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UETA & the NAIC

- Resolution
 - their state legislatures
 - that may impede e-commerce in insurance

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- Federal law passed in June 2000
- Applies to interstate and foreign commerce

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UETA & E-SIGN--Where are the overlaps?

- Basic rules concerning electronic

legal effect of both

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- Record retention

Automated transactions

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differences?

UETA addresses:

- Admissibility into evidence
- Attribution of signature
- Effects of changes and errors
- Sending and receiving electronic records

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differences?

E-SIGN addresses:

- Specific applications to insurance
- Preemption and state autonomy
- Consumer disclosures

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& other state laws?

If enacted, UETA governs

- state laws, especially re exclusions
- standards of consistency and neutrality
- requirements

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- Statement of Intent
- Electronic Commerce & Regulation
Working Group
- Anti-fraud efforts

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NAIC Statement of Intent-- Licensing/Reciprocity

- Agents
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 - short-term goal
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 - Goal: exceed the requirements of the Gramm-

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NAIC Statement of Intent-- Licensing/Reciprocity

- Companies
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 - Uniform Certificate of Authority Application
 - Accelerated License Evaluation Review

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NAIC Statement of Intent-- E-Commerce

- Consumers and industry must be allowed to
- Work toward implementation of electronic
- Support for Electronic Commerce &

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Electronic Commerce &

- Marketing of Insurance over the Internet white paper--1997
- Appointed by Special Committee on Regulatory Re-engineering in March 1998
- Charge of the working group/Goals
 - Efficient electronic regulation
 - Develop recommendations for beneficial consumer interaction with insurers

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Electronic Commerce &

- Guidelines

- Consumer safeguards

Harmonization of existing laws to include electronic transactions

Regulatory “burden” no greater than in paper world

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Electronic Commerce &

- Electronic Commerce & Regulation Issues
Paper--examined factors that may impede e-commerce in insurance and offered recommendations for regulatory responses

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Electronic Commerce & Regulation Working Group

- Electronic Commerce & Regulation Issues

1. Signatures and Electronic Authentication:
Uniformity & security
2. Countersignature/Non-resident Restrictions
should be eliminated
3. Document Delivery: Party autonomy

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Electronic Commerce & Regulation Working Group

- Electronic Commerce & Regulation Issues

5. Proof of Coverage: Is paper evidence essential?

6. Electronic Payments: Allow for EFT

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objectives

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Electronic Commerce & Regulation Working Group

- - Paper

- 8. Disclosures/Disclaimers: Readability
 - 9. Advertising: Retrospective review best?
 - 10. Jurisdiction: “Purposeful availment”

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Regulation Working Group

Current activities

- Protecting the Consumer Subgroup: How can the consumer be sure?
- Technical Bulletin Drafting Subgroup
- Planning for e-commerce summit
- Resolution concerning Uniform Computer Information Transaction Act (UCITA)

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- What are some roles for state insurance regulation?
 - Monitoring the Web for suspicious activity
 - Building relationships with the private sector and federal authorities
 - Training fraud investigators in online fraud techniques

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Questions

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